

REMARKS

Claims 1-16 and 18 are pending in this application. By this Amendment, claims 1, 7 and 16 are amended. The amendments introduce no new matter. Claim 17 is canceled without prejudice to, or disclaimer of, the subject matter recited in that claim. Reconsideration of the application based on the above amendments and the following remarks is respectfully requested.

The Office Action, on page 2, objects to some of the references cited in the February 2, 2004, November 10, 2005 and August 31, 2007 Information Disclosure Statements. Without conceding the propriety of these objections, Applicants intend to address these objections in a later-filed Supplemental Information Disclosure Statement.

The Office Action, on page 3, rejects claims 1-18 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Specifically, the Office Action asserts that the term "exposing," recited in claim 1, the phrase "the sensed characteristics relate to," as recited in claims 13-15, the term "sensing," as recited in the pending claims, and the preamble of claim 16 are unclear. Without conceding the propriety of the rejection to the preamble of claim 16, claim 16 is amended to obviate this rejection. The remaining rejections are respectfully traversed.

With respect to the rejection of terms that are allegedly unclear, Applicants disclose on at least pages 42-45 a description of these terms such that one of ordinary skill in the art would have clearly understood what is intended by the subject matter recited in the pending claims.

The Office Action asserts that there is some disparity between the sensing performed, as it is recited in claims 1-15 and claims 16-18. As discussed above, however, Applicants clearly have support for the features recited in these claims on at least pages 42-45 of the specification. Further, the Office Action's assertion that the pending claims are unclear

because sensing is allegedly required in claims 1-15 but not claims 16-18 is improper. For example, claims 1 and 16 are independent claims, in which, Applicants are allowed to claim any subject matter that is supported by the specification. Applicants are under no obligation to recite sensing in claim 16 merely because sensing may be recited in other claims.

Regarding the rejection under 35 U.S.C. §112, second paragraph, the test for compliance with this section, as stated in *Miles Lab., Inc. v. Shandon Inc.*, 997 F.2d 870, 875, 27 USPQ2d 1123, 1126 (Fed. Cir. 1993), *cert. denied*, 510 U.S. 1100 (1994) is whether one skilled in the art would understand the bounds of the claims when read in light of the specification. If the claims, read in light of the specification, reasonably apprise those skilled in the art of the scope of the invention, Section 112 demands no more. *See, also, In re Merat*, 519 F.2d 1390, 1396, 186 USPQ 471, 476 (CCPA 1975), which stated that the question under Section 112, second paragraph, is whether the claim language, when read by a person of ordinary skill in the art in light of the specification, describes the subject matter with sufficient precision that the bounds of the claimed subject matter are distinct. *See, also, In re Warmerdam*, 33 F3d 1354, 1361, 31 USPQ2d 1754, 1759 (Fed. Cir. 1994). This standard is met with respect to the above-described features.

The Office Action, on pages 3 and 4, rejects claims 1-3, 5-9 and 13-15 under 35 U.S.C. §102(b) as being anticipated by International Patent Publication No. WO 94/06292 to Sadri; on page 4, rejects claims 1-3, 9 and 16-18 under 35 U.S.C. §102(b) as being anticipated by International Patent Publication No. WO 98/09166 to Dietz et al. (hereinafter "Dietz"); and, on page 5, rejects claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over Sadri in view of International Patent Publication No. WO 96/29865 to Fahy et al. (hereinafter "Fahy") and Journal Publication "The In-Vitro Inhibition of Rat Alloantigen Presentation by Immunotoxins-Implications for Allografting," Clin. Exp. Immunol. (1989) 76, 132-137 by Wiley et al. (hereinafter "Wiley") and Journal Publication "The Effectiveness of Anti-IA-

Immunotoxins in the Suppression of MLR^{1,2}," Transplantation Vol. 42, No. 2 by Nakahara et al. (hereinafter "Nakahara"). These rejections are respectfully traversed.

Without conceding the propriety of these rejections, claims 1 and 16 are amended to recite, among other features, analyzing the at least one organ to determine whether the organ is suitable to be transplanted; and based on a determination that the organ is not suitable to be transplanted, further comprising additional features. The applied references do not teach, nor can they reasonably be considered to have suggested, these features.

With respect to Sadri, the Office Action asserts that Sadri teaches features that can be considered to correspond to the combinations of features recited in claims 1 and 16. Sadri teaches a method for determining the effect of a test substance on an organ by comparing the characteristics of the perfusate leaving the test organ to those of the perfusate leaving the control organ (page 17). Sadri further teaches maintaining ex-vivo organ viability by perfusion (see Background). Sadri further teaches that isolation of organs from the host is valuable for assessing pharmacological and toxicological effects of compounds on organs (page 4, lines 6-19).

With respect to Dietz, the Office Action asserts that while the reference does not specifically state that the organ will not be transplanted, one may infer that the intent was not to transplant the organ, but to test possible drugs for their effect on the organ. Dietz teaches a method for analyzing properties of compounds on an animal organ through a perfusion system (Abstract).

Sandri and Dietz, however, do not disclose analyzing at least one organ to determine whether the organ is suitable to be transplanted and based on a determination that the organ is not suitable to be transplanted the various steps recited in claims 1 and 16, as recited in claims 1 and 16.

Fahy, Willey and Nakamura do not cure the above-identified deficiencies of Sadri Dietz.

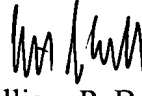
For at least the foregoing reasons, the applied references do not teach, nor can they reasonably be considered to have suggested, the combinations of features recited in independent claims 1 and 16. Additionally, claims 2-15 and 18 are also not taught, nor would they have been reasonably suggested, by the applied references, for at least the respective dependence of these claims, directly or indirectly, on an allowable base claim, as well as for the separately patentable subject matter that each of these claims recites.

Accordingly, reconsideration and withdrawal of the rejections of claims 1-16 and 18 under 35 U.S.C. §§102(b) and 103(a) as being anticipated by, or unpatentable over, the applied references, are respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-16 and 18 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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WPB:CJW/clf

Attachment:
Petition for Extension of Time

Date: April 3, 2008

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